

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.81 OF 2017

Mohd. Sharif Mohd. Ashraf and ors

..VS..

The State of Maharashtra, through Police Station Officer, Police Station Badnera,
District Amravati

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri N.B. Bargat, Counsel for the applicants.

Ms T.H. Udeshi, Addl.P.P. for the non-applicant/State.

CORAM : V.M. DESHPANDE, J.

DATED : JULY 31, 2017.

Heard learned counsel Shri N.B. Bargat for the
applicants and learned Additional Public Prosecutor Ms T.H.
Udeshi for the non-applicant/State.

Looking to the nature of evidence, *prima facie* it
appears that the Courts below have not appreciated evidence in
correct perspective and non appreciation of evidence in its
correct perspective, in my view, the case arises to a question of
law.

Hence, **RULE.**

Learned Additional Public Prosecutor Ms T.H.

Udeshi waives service on behalf of the non-applicant/State.

Call record and proceedings.

Criminal Application (APPR) NO.105 of 2017

At the outset, learned counsel Shri N.B. Bargat for the applicants submits that the applicants have surrendered themselves and presently they are in Central Prison at Amravati.

This is an application under Section 389(1) of the Code of Criminal Procedure, 1973 for suspension of substantive jail sentence and for grant of bail.

The applicants were convicted by learned Judicial Magistrate First Class, Court No.6 at Amravati in Regular Criminal Case No.1343 of 2008 on 7.5.2011 for the offence punishable under Section 323 of the Indian Penal Code, 1860 and they were directed to suffer rigorous imprisonment for 3 months each and to pay fine of Rs.500/- each. The appeal carried by them, being Criminal Appeal No.89 of 2011, is also dismissed by learned Additional Sessions Judge-3 at Amravati on 9.5.2017.

This Court has, today, admitted the present revision application.

Looking to the quantum of sentence of 3 months and the applicants were on bail throughout during the

pendency of the Trial as well as during pendency of the appeal, I pass the following order:

ORDER

- i) The present application is allowed.
- ii) Substantive jail sentence, imposed upon the applicants by learned Judicial Magistrate First Class, Court No.6 at Amravati in Regular Criminal Case No.1343 of 2008 on 7.5.2011 and confirmed by the Appellate Court in Criminal Appeal No.89 of 2011 on 9.5.2017, shall remain suspended during the pendency of the present criminal revision application.
- iii) The applicants be released on bail on their executing P.R. Bonds of Rs.5,000/- (rupees five thousand only) by each of them with one surety each before learned Magistrate at Amravati.
- iv) Before releasing the applicants on bail, learned Magistrate to ensure that entire fine is deposited.
- v) The applicants to remain personally present before this Court at the time of final hearing of the present criminal revision application.

vi) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!